

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 11

231 Fourth Avenue Lyceum, LLC,

Case No. 13-42125-cec

Debtor.
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ORDER DENYING THE DEBTOR'S MOTION

WHEREAS, on February 2, 2017, 231 Fourth Avenue Lyceum, LLC (the “Debtor”) filed a motion seeking to vacate a state court order (the “State Court Order”) and for an open public hearing on judicial notice of undisputed facts (the “Motion”); and

WHEREAS, the Debtor is currently, and was at the time of the filing of the Motion, a limited liability company not represented by counsel; and

WHEREAS, a corporation, or limited liability company, must be represented by counsel (Jones v. Niagara Frontier Transp. Auth., 722 F.2d 20, 22-23 (2d Cir. 1983)); and

WHEREAS, the Debtor has requested that this Court vacate the State Court Order pursuant to Fed. R. Civ. P. 60(b)(4); and

WHEREAS, Fed. R. Civ. P. 60(b)(4) does not provide authority for this Court to vacate an order issued by another court; and

WHEREAS, this case was dismissed on September 5, 2014; and

WHEREAS, in order to consider the Motion it would be necessary to vacate the order dismissing this case (See In re Critical Care Support Servs., 236 B.R. 137, 140 (E.D.N.Y. 1999), see also Cole v. Household Financial, et al. (In re Cole), 382 B.R. 20, 24 (Bankr. E.D.N.Y. 2008)); and

WHEREAS, no grounds exist to vacate the order dismissing this case; and

WHEREAS, the property which was the subject of the State Court Order was sold on or about October 23, 2014, and is no longer property of the Debtor; and

WHEREAS, this matter is therefore moot;

NOW, THEREFORE, it is hereby

ORDERED, that, after due consideration, and for all of the above reasons, the Debtor's Motion is denied in its entirety; and it is further

ORDERED, that the hearing on the Motion that was scheduled for March 9, 2017 at 2:00 p.m. is marked off; and it is further

ORDERED, that the Court certifies pursuant to 28 U.S.C. § 1915(3) that any appeal from this order would not be taken in good faith.

**Dated: Brooklyn, New York
February 6, 2017**





Carla E. Craig
United States Bankruptcy Judge